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SERVICE DATE - APRIL 21, 1999

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-6 (Sub-No. 381X)

THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY--
ABANDONMENT EXEMPTION--IN HENNEPIN AND RAMSEY COUNTIES, MN

Decided: April 19, 1999

The Burlington Northern and Santa Fe Railway Company (BNSF) filed a notice of exemption under 49 CFR 1152 Subpart F--Exempt Abandonments to abandon 2.43 miles of rail line between milepost 0.00 near East Minneapolis and milepost 2.43 near Rollins Oil, in Hennepin and Ramsey Counties, MN. Notice of the exemption was served and published in the Federal Register on November 30, 1998 (63 FR 65865-66). By decision served on December 29, 1998, a 180-day public use condition was imposed under 49 U.S.C. 10905 for the 2.43-mile line at the request of the Minnesota Department of Transportation (MnDot). The condition required that BNSF keep the right-of-way intact, including bridges, trestles, culverts and tunnels, for a period of 180 days after the effective date of the exemption to permit MnDot and any other state or local government agency or other interested person to negotiate for acquisition of the line for public use. The public use condition is scheduled to expire on June 28, 1999.¹

On March 2, 1999, BNSF requested that the Board partially vacate the public use condition for the line segment between milepost 2.18 and milepost 2.43. BNSF states that, in order to facilitate the location of a new rail shipper facility (Triangle Warehouse) and rail spur within the abandonment/discontinuance area, it has been negotiating a sale of a section of property included within the abandonment/discontinuance limits. According to BNSF, the closing of the sale transaction is pending. Alternatively, BNSF seeks Board approval for the sale notwithstanding the public use condition or a Board clarification that the sale would be consistent with the public use condition (under the theory that, while the property would become private spur track, the property would be sold for continued rail purposes).

BNSF also states that it has been negotiating the transfer of another section of property along the right-of-way to Diversified Graphics for private use and, accordingly, requests that a portion of the right-of-way between milepost 0.00 and Broadway Street NE be released from the public use condition, or that the Board authorize the transaction notwithstanding the pendency of the public use condition.

¹ The December 29, 1999 decision also imposed an environmental condition that required BNSF, prior to engaging in any salvage activities, to consult with the Minnesota Pollution Control Agency to address possible impacts resulting from salvage operations.

The public use condition was imposed in the decision served December 29, 1998, at the request of MnDot in order to provide a 180-day period for MnDot and other agencies to study alternative transportation and transmission usages for the right-of-way, to obtain appraisals, and to negotiate with BNSF. On March 19, 1999, the Minneapolis Park and Recreation Board (Minneapolis PRB) filed a letter with the Board reporting on a meeting held on March 11, 1999, to discuss the future of the 2.43-mile right-of-way. According to the Minneapolis PRB, the meeting was attended by representatives of a number of state, county, and local governmental entities, including MnDot, and all parties to the meeting reportedly agreed that the 2.43-mile line has the potential for meeting the transportation needs for rapid transit and commuter/recreational trails. In view of the continued and demonstrated public interest in the use of the right-of-way, and the lack of any showing by BNSF that its proposed property transfers would not be inconsistent with the public uses under consideration, the relief sought by BNSF will not be granted.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. BNSF's request for relief from the application of the public use condition imposed in this proceeding as to the segments between milepost 2.18 and milepost 2.43 and between milepost 0.00 and Broadway NE is denied.
2. The public use condition imposed in the decision served on December 29, 1998, remains in effect until June 28, 1999.
3. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary